

Fourth Draft  
June 11, 1984

Coding: Words underscored are deletions from existing ordinance; words in BOLDFACE type are additions

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ORDINANCE NO. 149

AN ORDINANCE OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING CHAPTER 10, CODE OF ORDINANCES, TOWN OF SEWALL'S POINT, FLORIDA; PROHIBITING LIVING ABOARD VESSELS WITHIN THE TOWN; PROVIDING A DEFINITION OF LIVE-ABOARD VESSELS; PROVIDING AN EXCEPTION FOR INCIDENTAL LIVE-ABOARD USES; ESTABLISHING REQUIREMENTS FOR SANITATION DEVICES; PROHIBITING DISCHARGE OF WASTE; PROVIDING FOR INSERTION IN THE TOWN CODE; PROVIDING REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; PROVIDING FOR SEPARATION IN THE EVENT A SECTION OR PORTION IS DECLARED TO BE UNCONSTITUTIONAL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 83-20, General Laws of Florida, 1983, effective October 1, 1983, authorizes and permits local governments in Florida to regulate the mooring or anchoring of live-aboard vessels within their jurisdictions; and

WHEREAS, it is deemed by the Town Commission of the Town of Sewall's Point, Florida, to be in the best public interest to prohibit the docking, mooring or anchoring of live-aboard vessels in all waters within the corporate limits of the Town, with certain stated exceptions.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, that Section 10-20 of the Code of Ordinances, Town of Sewall's Point, Florida, is hereby amended to read as follows:

Sec. 10-20. Docking, mooring or anchoring live-aboard vessels prohibited.

(a) Prohibition. It shall be unlawful to dock, moor or anchor a live-aboard vessel in any waters within the jurisdictional limits of the Town.

(b) Definitions. As used in this Chapter, the term "live-aboard vessel" shall mean any vessel, watercraft, boat, yacht, or houseboat being used solely or principally as a residence, a place of business, a professional or commercial enterprise, or a legal residence; provided that commercial fishing boats are expressly excluded from this definition.

(c) Exceptions. Vessels equipped with marine sanitation devices currently approved by the United States Coast Guard in good working order that are docked, moored or anchored adjacent to any lot within a residential district may be temporarily used as live-aboard vessels by the owners or occupants of such lot, or by their social guests, provided that no such use shall exist for more than ten (10) days within any given period of thirty (30) days.

BE IT FURTHER ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, that Section 10-21 of the Code of Ordinances, Town of Sewall's Point, Florida, is hereby amended to read as follows:

Sec. 10-21. Repairs while moored in residential area.

No person shall repair, maintain or alter any vessel docked, moored or anchored adjacent to any lot within a residential district; provided that routine maintenance, repair or alteration may be conducted during the hours and in the manner specified for building and construction work within the Town in Section 4-1 of the Code of Ordinances.

BE IT FURTHER ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, that Section 10-24 of the Code of Ordinances, Town of Sewall's Point, Florida, is hereby amended to read as follows:

Sec. 10-24. Sanitary condition of pier or mooring; garbage cans; unlawful discharge throwing debris into waterways.

(a) The operators or occupants of all vessels docked within the Town shall at all times keep the docks, walls, parkways and premises adjacent to such dock space free from stale fish, garbage, trash, rubbish, fish bait, boat equipment, repair parts, machinery, equipment and debris of all kinds; provided that ordinary and necessary boating and dock accessories, such as ring buoys, equipment boxes, lights, machinery for lifting small boats, boarding stairs and fishing equipment may be maintained on docks, so long as there is not thereby created any unsightly or unsanitary condition or excessive or disturbing noise or light that unreasonably intrudes upon the peace and good order of the neighborhood.

(b) All watercraft moored or docked in the waterways within the Town shall be provided garbage cans of sufficient size to hold garbage or refuse to be collected by independent garbage collectors and same is to be paid for by the boat owner.

(c) No person shall throw, discharge, deposit or leave, or cause or permit to be thrown, discharged, deposited or left any garbage, trash, refuse, debris, sewage, or other waste material into any waters within jurisdictional limits of the Town, or allow any person or any vessel under his control or command to do so; provided, however, that this section shall not prohibit the incidental discharge of waste water produced in connection with washing, bathing, or cleaning on watercraft, docks or seawalls.

(d) No person shall otherwise contaminate the waterways located within the Town. (Ord. No. 57, §9, 2-12-69)

BE IT FURTHER ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, that Section 10-30 of the Code of Ordinances, Town of Sewall's Point, Florida, is hereby repealed.

BE IT FURTHER ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, that the Code of Ordinances, Town

of Sewall's Point, Florida, is hereby amended by adding a Section to be numbered 10-32., which section reads as follows:

**Sec. 10-32. Unlawful acts; presumption.**

It shall be unlawful for any person to violate any of the terms of this Chapter, or to permit any other person under his control or command to do so, and each day of violation shall constitute a separate offense. For the purposes of this Chapter, there shall be a rebuttable presumption that the owner or occupant of property within the Town is in control or command of all vessels docked, moored or anchored adjacent to such property, and of all persons aboard such vessels.

**SEPARATION.**

If any section, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to have been the intent of the Board to adopt this Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts, shall be deemed and held to be valid as if such part or parts had not been included herein. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holdings shall not affect its applicability to any other person, property or circumstances.

**REPEAL.**

Town ordinances and Town resolutions, or parts thereof, in conflict with this Ordinance are hereby abolished and repealed to the extent of such conflict.

**INCORPORATION IN TOWN CODE.**

Provisions of this Ordinance shall be incorporated in the Town Code and the word "Ordinance" may be changed to "section," "article," or other appropriate word, and the sections of this Ordinance may be renumbered or relettered to accomplish such intention.

EFFECTIVE DATE.

This Ordinance shall become effective immediately upon the date of its passage according to law.

Passed first reading at the regular meeting of the Town Commission held on the 13th day of June, 1984.

Passed second reading at the regular meeting of the Town Commission held on the 11th day of July, 1984.

ATTEST:

Joan Barrow  
JOAN BARROW, Town Clerk

Approved as to form and correctness:

M. Lanning Fox  
M. LANNING FOX, Town Attorney

John C. Guenther  
JOHN C. GUENTHER, Mayor - Commissioner

G. C. Strubell  
GILBERT C. STRUBELL, Vice-Mayor - Commissioner

Robert R. Aune  
ROBERT R. AUNE, Commissioner

Clifford B. Drake  
CLIFFORD B. DRAKE, Commissioner

Helena B. Towl  
HELENA B. TOWL, Commissioner